
P416 Workgroup Meeting 1 Note

Summary

1. Welcome and Meeting Objectives

1.1 The Chair welcomed Workgroup Members and informed attendees of the required meeting outcomes.

2. Terms of Reference and Timetable

2.1 Elexon presented the Terms of Reference questions and Panel approved progression timetable to Workgroup Members. Elexon highlighted the following key points:

- That the Proposer recommends an Implementation Date 5 Working Days (WDs) after Authority approval so that the Modification can be in place for the 2022/2023 Annual Budget process.
- That the Panel are expected to consider the Modification at the May 2021 Panel meeting.

3. Overview of P416

3.1 The Proposer presented the Proposed Solution for P416 and highlighted the issues, the Proposed Solution criteria that have to be satisfied before an appeal can be made and their initial view of the proposal against the Applicable BSC Objectives.

3.2 Workgroup Members asked the Proposer who would make the determination on whether an appeal met the detailed criteria. The Proposer clarified that under the current solution the Authority would make this determination.

3.3 The Workgroup discussed the criteria detailed for a valid appeal. A Workgroup Member believed that the criterion '*will, or is likely to, prejudice unfairly the interests of one or more Parties, or cause them to be in breach of this Code, the Energy Licences and/or Law*' is very broad and could have the potential to be used inappropriately. The Proposer took an action away to consider the background of this criterion in relation to the Retail Energy Code (REC) drafting and report back to the Workgroup at its next meeting.

3.4 The Proposer clarified that the REC provisions that the redlining as modelled from had not yet been implemented in the REC.

4. Consider P416 Proposed Solution and potential alternative solutions for P416

4.1 Workgroup Members considered the Proposed Solution and questioned whether there would be merit in including some kind of participation threshold in the Proposed Solution e.g. 5% of all Trading Parties by market share would have to agree to raise an appeal before it could be raised. A Workgroup Member highlighted the importance of Trading Parties participating in the Annual Budget process to resolve issues as early as possible to avoid appeals being used.

5. Areas for Consideration

5.1 The Proposed Solution allows all BSC Parties to raise an appeal. A Workgroup Member highlighted that not all BSC Parties have exposure to the Elexon budget and questioned whether it would be appropriate to modify the group of parties that can raise an appeal. The Proposer stated that whilst this might be the case, it is unlikely to pose a risk as controls already exist in the Proposed Solution to prevent frivolous appeals being raised.

5.2 The Workgroup discussed the current timescales for the Annual Budget approval process. Workgroup members expressed the view that the timescales to resolve appeals would be very tight. Some Workgroup Members expressed a preference to require a forum to discuss potential appeals prior to raising an official appeal. A

Workgroup Member suggested that the drafting could be amended to include a 'duty to consult' type provision before raising an appeal. The Proposer took an action to consider possible options for a pre-appeals process.

- 5.3 The Workgroup discussed whether the current Annual Budget gives a breakdown of budget items in sufficient detail to appropriately appeal items under the Proposed Solution. Elexon took an action to consider different possible ways of presenting items within the Annual Budget to facilitate the Modification and to consider any impacts as a result of these changes.
- 5.4 The Workgroup considered whether any current BSC provisions could be used instead of or in conjunction with an appeals process. Elexon described the Special Resolution process introduced under P324. A Workgroup Member expressed the view that whilst any Special Resolutions are non-binding, the use of such a resolution would put significant pressure on relevant parties which could then be followed up with the removal of Board members if appropriate action is not taken.

Actions

- The Proposer to:
 - Find out rationale for '*will, or is likely to, prejudice unfairly the interests of one or more Parties, or cause them to be in breach of this Code, the Energy Licences and/or Law*' provision in REC drafting.
 - To consider possible options for a pre-appeals process.

- Elexon to:
 - Consider different ways of presenting items within the Annual Budget to facilitate the Modification and to consider any impacts as a result of these changes.
 - Explain current groupings of items under the current Annual Budget.